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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,320	11/13/2001	Pekka Lehto	PAT132USA	6939

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EXAMINER

SAFAVI, MICHAEL

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 04/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/009,320

Applicant(s)

LEHTO, PEKKA

Examiner

M. Safavi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear from the language of claims 1-6 as to what, specifically, is being defined as the invention to be patented. Claim 1 begins by reciting "...system especially for the construction of fuel distribution forecourts" then proceeds to recite language apparently directed to a forecourt which language lists elements that may or may not form part of any forecourt. See for example, "contains...possibly an automatic dispenser" or "and necessary electrical and pipework systems". And, with the recitation of "...particularly for a pillar" it is not clear as to whether a pillar forms part of the forecourt or not. For that matter does a forecourt or forecourts form part of the invention defined by claim 1? As for forecourt versus forecourts, see, for example, lines 1-2 of claim 1 which recite "for the construction of fuel distribution forecourts, in which the forecourt...". Does the language of claim 1 define a forecourt or a plurality of forecourts? Or, is there no forecourt, at all? As mentioned earlier, claim 1 appears to list elements which apparently form or are intended to form a "forecourt". But, it is not clear that any forecourt forms part of the claimed invention to be patented. Or, for that matter, that any or all of the recited elements are directed to what goes to form any part of a forecourt. Claim 1 recites "[a] system" when it is not

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clear as to what, exactly, forms the “system” of claim 1. Applicant, otherwise, appears to be reciting variously known parts or elements of any given existing “forecourt” or structural installation.

Claim 2 appears to recite language directed to “the columns”. But, do columns form part of the invention of claims 1-4? Or, is the language of claim 2 merely defining columns that may be used with or to form the claimed “system”.

Claim 3, what, specifically, is being defined by “...is understood to include pre-fitted fuel pumps, automatic dispensers and sumps”? Are these elements of a known “island” and does an “island” form part of the invention defined by claims 1-4? Otherwise, what is being defined by “...is understood...”?

The language of claims 3 and 4 appear to recite elements related to an “island” when it is not apparent that an “island” forms part of the invention of claims 1-4. Therefore, it is not understood as to how claims 3 and 4 serve to further define or further limit the invention of claim 1.

Claim 1, line 6, “the pumps” lacks an antecedent within the claim. Also, “the automatic dispenser” does not possess an antecedent basis as line 2 of claim 1 recites only the possibility of an automatic dispenser. Line 7, “the island” lacks an antecedent within the claim. Line 8, the pillar’s concrete island” lacks an antecedent within the claim.

Claim 2, lines 2-3, “the protective membrane” lacks an antecedent within the claim. Line 3, “the membranes plastic surface” lacks an antecedent within the claim.

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Claim 3, “the island” lacks an antecedent within the claim.

Claim 4, line 2, “the island” lacks an antecedent within the claim. Lines 2-3, “the after installation adjusting” lacks an antecedent within the claim. Line 3, to what island does “island” refer?

Claim 5 appears directed to a process with recitation of “[a] method for the accomplishment of a system...”. But, the language of claims 5 and 6 fail to recite a procedural step which would serve to define the method steps involved with the claim process. If claim 5 were to be looked upon as an article of manufacture claim then the ambiguities surrounding the language of claim 1 fall upon the language of claims 5 and 6. For example, what is being defined by “...specifically intended for fuel distribution”? Does the “system” possess an automatic dispenser or merely the possibility of an automatic dispenser. Do electrical and pipework form part of the “system”?

Claim 6 appears to only recite an attribute of an element namely “a sealed protective membrane”. Otherwise, it is not clear as to how the language of claim 6 serves to further define or further limit the invention of claim 5.

Claim 5, line 1, what is being defined by “for the accomplishment of a system”? Line 4, “the canopy” lacks an antecedent within the claim. Line 6, “the footing for the roof” lacks an antecedent within the claim. Also, what is being defined by “for which the footing for the roof is installed to the desired depth”? Line 7, “the island” lacks an antecedent within the claim.

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Claim 6, line 3, "the sumps" lacks an antecedent within the claim. Also, does "the columns" refer to "column-like members" as presented in line 9 of claim 5?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 1-6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Shotmeyer. Shotmeyer discloses, as in Figs. 1-3, 6, and 7, a "system" which may include fuel pumps or automatic dispensers 38/40, pillar 32 for supporting a canopy 18, concrete footing 86 supporting pillar 32 as well as any necessary electrical and pipework systems, and island 84.

5. Claims 1-6, as best understood, are rejected under 35 U.S.C. 102(a) or 102(b) as being anticipated by Sistonen. Sistonen discloses, as in Figs. 1-4, a "system" which may include fuel

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pumps or automatic dispensers 3, pillar 4 for supporting a canopy 4, concrete footing 5 supporting pillar 4 as well as any necessary electrical and pipework systems, and island 2.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2168.



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 3673**

M. Safavi
April 21, 2003